

6. One of the female employees at the Foxy Lady Club gave the Plaintiff a massage at the table where he was with his friends, and one of his friends bought him a lap dance (Exhibit B, pp. 35-36).

7. Plaintiff drank more beer, and then one of his friends got him another lap dance from a different girl (Exhibit B, p. 37).

8. After the lap dance, the Plaintiff returned to the table with his friends and started drinking beer again (Id.).

9. Plaintiff received another massage and a lap dance (Exhibit B, p. 38).

10. After the Plaintiff's fourth lap dance, he was informed by the waitress that he was not permitted to drink any more beer (Id.).

11. Plaintiff was informed by the waitress that her manager told her to tell the Plaintiff that he could not have any more beers or he would have to leave (Exhibit B, p. 39).

12. In response to the waitress's instructions, the Plaintiff grabbed another friend's beer and started drinking it. (Exhibit B, p. 40).

13. The waitress then said "well, that's it" and walked away. (Id.).

14. The manager of the Foxy Lady Club, John Ferraro, then asked the Plaintiff to leave. (Exhibit B, p. 42; Exhibit D, Ferraro deposition, p. 35).

15. Prior to asking the Plaintiff to leave, Ferraro had received complaints from his employees as they were getting off the stage that the Plaintiff was yelling at them, calling them "fucking slut, fucking whore and also throwing hard coins at them while they were on stage." (Exhibit D, p. 31).

16. Due to this activity, the Plaintiff was approached by Ferraro and made aware of the complaints and was told if there were any more complaints, he would be asked to leave. (Exhibit D, p. 35).

17. Plaintiff “just kind of turned away” from Ferraro and “didn’t really acknowledge it.” [Ferraro’s directive]. (Exhibit D, p. 34).

18. Ferraro then observed the Plaintiff throw more coins and could hear him yelling at the girls on the stage and that is when he asked him to leave (Id.).

19. Plaintiff began to leave the establishment, walking by a paid detail police officer (McDermott) in the vestibule of the Foxy Lady and began to insult McDermott (Exhibit B, p. 47).

20. Plaintiff, in response to McDermott asking the Plaintiff to leave or face arrest, said “fuck you, you can’t arrest me ‘cause I’m leaving. How can you arrest me when I’m fucking leaving. It’s not my fault that you were picked on in high school and you fucking – ah, you gotta be a cop. You’ve got to have your power over me. . . .” (Id.).

21. McDermott made eye contact with the Plaintiff and told him to get off the property or he would be arrested for trespassing and disorderly person (Exhibit E, McDermott deposition, p. 41).

22. Plaintiff’s friends tried to intervene and apologize for his behavior, and McDermott again told Plaintiff to get off the property or be arrested (Id.).

23. Plaintiff continued to defy McDermott, and once in the parking lot of the Foxy Lady, McDermott observed Plaintiff throw or push one of his friends (Exhibit E, p. 42).

24. McDermott then walked to the area making eye contact with the Plaintiff again and called for assistance (Id.)

25. McDermott then followed the Plaintiff and his friends into the area of the adjacent Walgreens parking lot as Plaintiff’s friends continued to have problems with the Plaintiff as he would not listen to them and would not walk back to the motor vehicle and would not leave (Id.).

26. The Plaintiff was raving at McDermott. (Exhibit B, p. 62).

27. At this point, McDermott approached Plaintiff and told him he was under arrest (Id.).

28. McDermott then went to grab the Plaintiff and the Plaintiff put up his hands and resisted (Exhibit B, pp. 63-64).

29. McDermott then stepped back and pepper-sprayed the Plaintiff, and he began to run (Exhibit E, p. 42).

30. McDermott and arriving Officer Anderson, along with State Trooper Higgenbotham, arrived and assisted McDermott in securing the Plaintiff (Exhibit E, p. 43).

31. Plaintiff's last memory after being stopped by McDermott is getting up off the ground (Exhibit B, p. 73).

Defendants, City of Brockton,
Christopher McDermott and
Darvin Anderson,

By its Attorney,

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CERTIFICATE OF SERVICE

I, Stephen C. Pfaff, hereby certify that on February 15th, 2013, this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) .

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